

CHAPTER NO. 806**SENATE BILL NO. 2594****By Beavers, Southerland, Bryson, Norris, Graves, Fowler****Substituted for: House Bill No. 2633****By Lynn, Gresham, Hensley, Eldridge, Black, Phillip Johnson, Wood, Dunn, Harry
Brooks, Casada, Cochran, Davis, Sharp, Hargett**

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 4, relative to public contracts for social services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, Part 1, is amended by adding the following language as a new section:

Section 12-4-121. (a) Notwithstanding any other provision of law to the contrary, state and local governments shall contract for goods and services provided through, or administered by, the Departments of Children's Services and Health and Human Services without discrimination against religious organizations or discrimination based on race, age, color, sex, or national origin and shall provide beneficiaries of assistance under the programs established by law with forms of disbursement that are redeemable with these organizations that are awarded a contract. State and local governments may use any state, federal, local or other monies available for these purposes.

(b) State and local governments shall allow contracts with religious organizations to provide goods and services provided through, or administered by, the Departments of Children's Services and Health and Human Services and to accept forms of disbursement under any program established on the same basis as any other non-governmental provider without impairing the religious character of these organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under these programs. The programs shall be implemented consistent with the First Amendment of the United States Constitution. State and local governments shall not discriminate against an organization that is, or applies to be, a contractor to provide assistance or that accepts forms of disbursement on the basis that the organization has a religious character.

(c) A religious organization with a contract described in this section shall retain its independence from federal, state and local governments, including the religious organization's control over the definition, development, practice and expression of its religious beliefs. State and local governments shall not require a religious organization to alter its form of internal governance or to remove religious art, icons, scripture or other symbols in order to be eligible to contract to provide assistance or to accept grants or other forms of disbursement funded under any program or public contract.

(d) If a person who applies for or receives goods, services or disbursements objects to the religious character of the organization or institution from which the person receives, or would receive, assistance funded under any program, the state or local

government shall provide the person, within a reasonable period of time after the date of the objection, with assistance from an alternative provider that is accessible to the person if an alternative provider is available and the value of which is not less than the value of assistance that the person would have received from the religious organization. Organizations shall provide notice to people receiving assistance of the right to object pursuant to this subsection.

(e) A religious organization's exemption provided under § 702 of the Civil Rights Act of 1964 (42 USC § 2000e-1(a)) regarding employment practices is not affected by its participation in or receipt of monies from programs described in this section. Nothing in this section allows religious organizations to discriminate in employment practices on the basis of race, age, color, sex or national origin.

(f) Except as otherwise provided by law, a religious organization shall not discriminate against a person in regard to rendering assistance funded under any program described in this section on the basis of religion, a religious belief or refusal to participate in a religious practice, or on the basis of race, age, color, sex or national origin.

(g) Except as provided in subsection (h), any religious organization that contracts to provide goods, services or assistance funded under any program is subject to the same rules as other contractors to account in accordance with generally accepted auditing principles for the use of the monies provided under the program.

(h) If a religious organization segregates public monies provided under these programs into separate accounts, only the programs funded by financial assistance provided with these monies are subject to financial and performance audits.

(i) Appeals from the decisions of the head of a state agency, board or commission may be made to the Commissioner of the Department of Finance and Administration in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(j) No monies provided directly to institutions or organizations to provide services and administer programs under this section may be spent for sectarian worship, instruction or proselytization. This subsection does not apply to the contracting for the services of chaplains by state and local governments.


(k) For the purposes of this section, "state and local governments" means state agencies, boards and commissions and political subdivisions of this state.

(l) No funds provided by any state or local government for goods and services to religious organizations shall supplant present funding of programs provided by such groups but shall be a supplement to the activities rendered by these groups.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to contracts entered into, or renewed, on or after the effective date of this act.

PASSED: May 20, 2004


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 3rd day of June 2004


PHIL BREDESEN, GOVERNOR